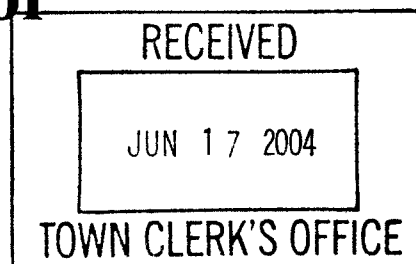




Town of New Windsor

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OFFICE OF THE PLANNING BOARD



MAY 12, 2004 -WEDNESDAY — 7:30 PM

TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES DATED: MARCH 24, 2004

PUBLIC HEARINGS:

1. **WAL-MART SITE PLAN, SPECIAL PERMIT & LL CHG (03-32 & 03-33) RT.**
300 Proposed expansion of existing Wal-Mart Store.
2. **SUMMIT-ON-HUDSON (PLUM PT. CONDOMINIUMS) SUBDIVISION (03-35)**
LAFAYETTE DRIVE (CAPELLO) Proposed two-lot subdivision.

REGULAR ITEMS:

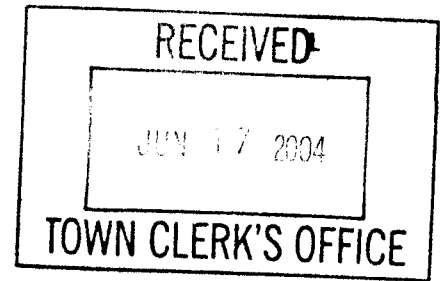
3. **EUGENE & JANN HECHT (TRUCK & TRAILER DEPOT & ECONO TOWING**
SITE PLAN & SPECIAL PERMIT (04-03) Proposed mixed uses on single property.
4. **SHADOW FAX RUN SUBDIVISION (03-23) JACKSON AVENUE**
(CLEARWATER) Proposed 22-lot residential subdivision.

DISCUSSION

ADJOURNMENT

(NEXT MEETING –MAY 26, 2004)

May 12, 2004



TOWN OF NEW WINDSOR
PLANNING BOARD

MAY 12, 2004

MEMBERS PRESENT: JAMES PETRO, CHAIRMAN
RON LANDER
JERRY ARGENIO
THOMAS KARNAVEZOS
NEIL SCHLESINGER

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
PLANNING BOARD ATTORNEY

MYRA MASON
PLANNING BOARD SECRETARY

ABSENT: JIM BRESNAN

REGULAR MEETING

MR. PETRO: I'd like to call to order the May 12, 2004 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

APPROVAL OF MINUTES DATED MARCH 24, 2004

MR. PETRO: Has everyone had a chance to read the minutes dated March 24, 2004? Entertain a motion.

MR. ARGENIO: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board accept the minutes of that date as written. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

PUBLIC HEARINGS:

WAL-MART SITE PLAN, SPECIAL PERMIT & LOT LINE CHANGE
(03-32 & 03-33)

MR. PETRO: Proposed expansion of existing Wal-Mart store. Application involves rearrangement of the property lines between the involved lots. The application was previously reviewed at the 22 October, 2003, 24 March, 2004 planning board meetings. Application is before the board tonight for a public hearing. This is a companion application to the Wal-Mart site plan which is also currently before the board application, involves rearrangement of a couple lot lines for the properties owned by Wal-Mart stores Inc. There are no significant outstanding issues for this application. We previously requested that the lot line change plan has some minor changes to the bulk table, we also requested that the plan include a note restricting with regard to direct access to proposed lots 5.1, 5.2 shown on parcel number one. Mark has worked out a preparation of a resolution for approval that we can get into later but obviously this is a public hearing. I notice there's people here tonight for public hearings. The way this works is the board reviews it first, at some time during that presentation, we will listen to your comment, close the public hearing, open it up to the board again.

MR. EDSALL: Do you want to combine it? Since it was advertised as a single public hearing for the lot line change, special permit and site plan, why don't we just for the record indicate that you're addressing both applications, both the lot line change and the site plan which includes special permit in this public hearing.

MR. PETRO: Just so there's no confusion, this has nothing to do with number one, this is number one both of what Mark's talking about. Is there someone here to

represent this, come forward, state your name and what you're doing here.

MR. GARDNER: Derrick Gardner with APD Engineering.

MR. PETRO: I made this presentation, I don't want to go over the whole thing again, so what we'll do is did any board members have any comment at this time? I'd like to open it to the public to find out if there's anything from them. This is, you have already had a public hearing in the Town of Newburgh, correct?

MR. GARDNER: Yes.

MR. PETRO: Not for the lot line change in the Town of New Windsor.

MR. GARDNER: No.

MR. PETRO: But you've had it for the site plan which you're also doing?

MR. GARDNER: Yes.

MR. PETRO: How was the turnout?

MR. GARDNER: One person.

MR. PETRO: One person for an entire Wal-Mart project? Amazing.

MR. GARDNER: That was from Applebee's, just traffic concern, other than that, that was it.

MR. PETRO: Very interesting. Okay, at this time, I'm going to open it up to the public for comment. On the 21st day of April, 2004, 4 addressed envelopes containing the public notice was mailed out. If anyone is here to speak for or against, be recognized by the Chair, come forward, state your name and address and

your concern.

MR. EBERT: Jerry Ebert from The Sentinel. Sir, could you give us a timetable on the construction if everything proceeds as planned?

MR. GARDNER: Currently right now we're going for site plan approval with the Town of New Windsor. Once we get that, we will turn around and go for the Town of Newburgh and know that we will begin in this June, we have a planning board meeting with them, if that goes well, we do get conditional site plan approval with them, we do have some issues so hopefully in the next two to three month's we'll be able to send this project out to bid and then once it's out to bid, it takes a couple months for the contractor to get the costs bid together and stuff like that and from their average construction for an expansion like this is about a year.

MR. PETRO: All right, Chair sees there's nobody else. Entertain a motion to close the public hearing.

MR. ARGENIO: Motion to close the public hearing for Wal-Mart.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Wal-Mart site plan special permit lot line change and site plan, correct, Mark?

MR. EDSALL: Yes.

MR. PETRO: Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: At this time, I will open it up to the board for any further comment. We have seen this quite a number of times, the lot line change in itself is not a major issue as is the special permit which I believe is for the gas station, right?

MR. GARDNER: Yes.

MR. PETRO: And again, the site plan was lead agency basically was by the Town of Newburgh, we're just reviewing it as a secondary interested party.

MR. GARDNER: Yes.

MR. PETRO: And I don't want to go over the same things that we've been going over for the last year. Do any of the members have anything different they want to add or anything that they have noticed or Mark, do you have any other comment you want to bring up at this time and if you don't, why don't you just go over your resolution that you prepared? You don't have to read the whole thing, just give us the highlights.

MR. EDSALL: This resolution deals with all three items, lot line change, site plan and the special permit that's part of the site plan. It acknowledges all the previous reviews and just for the record, SEQRA has been closed, lead agency, the Town of Newburgh Planning Board had declared a negative dec, this board has concurred on the record and at a previous meeting that's incorporated as an item in the resolution. If you look at resolution page 37, it notes that the lot line change would be approved conditional to two items, one, that the final plan be reviewed for compliance

with the requirements of the board as have been noted during the review and payment of all fees, page 4 lists a lengthy list of conditions for the approval of the site plan, it also lists special permit approval. I won't list all of them but I will note that one issue that has been of concern is the reconstruction of Liner Road. There has been discussion between the applicant, myself and Henry Kroll and the second bullet under number 3 on page four basically acknowledges that they need to reconstruct that section of road and the detail and scope has to be as acceptable to the highway superintendent and myself. We have already discussed the scope of what's intended but that means that Henry will have an opportunity to look at the final plan and write off on it. Also inasmuch as it's our understanding that Liner Road will be used as a construction access, we want to have the record clear that they are going to do the reconstruction after they beat the heck out of the road as part of the construction so they'd use the existing road and reconstruct it after they're done with all the earth work and primary earth moving and such heavy equipment. The rest are pretty procedural straightforward, I think you probably looked at them, it was part of the package you've had and it's my recommendation that you move forward on it. They have been cooperative and at this point, the Town of Newburgh Planning Board is waiting to hear that this board is satisfied before they move forward.

MR. PETRO: This is for final approval on the lot line change and the site plan and the special permit?

MR. EDSALL: Yes.

MR. ARGENIO: Separate motions?

MR. EDSALL: No, I think this, in this particular case given the fact that it is one action under SEQRA, and it's had one environmental review and you had one

public hearing and unless Andy thinks there's a problem, I think this resolution incorporates all three. It's clear we're doing three items.

MR. KRIEGER: I agree.

MR. PETRO: What we're going to do, gentlemen, is the subject-to or to's we're going to accept the resolution that Mark has written and that's before us and you have a copy of and the other items that Mark has mentioned that's the subject-to, it's in the minutes, Franny has put them there, we're not going to redo it, so motion for approval, we're going to second it, just do the drum roll and that's it, the subject-to's are already done.

MR. GARDNER: Yes, we worked on it.

MR. PETRO: The resolution as it's written and the other subject-to's, you got everything that Mark said? With that, I will entertain a motion for final approval for the Wal-Mart site plan special permit, lot line change and site plan on Route 300.

MR. ARGENIO: I'll make a motion for final approval for the same subject to the resolution in front of us.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Wal-Mart site plan special permit, lot line change and site plan on Route 300 with the subject-to that was just previously mentioned. Any further comment from any of the board members? If not, roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE

May 12, 2004

9

MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

**TOWN OF NEW WINDSOR PLANNING BOARD
RESOLUTION APPROVING WAL-MART LOT LINE CHANGE,
SPECIAL PERMIT AND SITE PLAN
(APPLICATIONS 03-32 & 03-33)**

WHEREAS;

1. On or about October 1, 2003, Wal-Mart Stores, Inc. and Wal-Mart Real Estate Business Trust (collectively "Wal-Mart") made Site Plan Application to the Town of Newburgh Planning Board for premises located in both the Town of Newburgh and New Windsor at NYS Route 300 and Liner Road for the expansion of an existing Wal-Mart store to an approximately 208, 708 square foot Wal-Mart Supercenter that would lie in both towns. The site is located in the Design Shopping (C) Zoning District in the Town of New Windsor.
2. On or about October 15, 2003, Wal-Mart made Site Plan Application to the Town of New Windsor Planning Board for the same project.
3. On or about October 21, 2003, Wal-Mart amended its application to the Town of New Windsor to also request a lot line change.
4. At a regularly scheduled meeting on October 22, 2003, this Planning Board reviewed the Site Plan and Lot Line Change Applications and long SEQRA Environmental Assessment Form along with the Town of Newburgh Planning Board's request to be Lead Agency and declared its intention to allow the Town of Newburgh Planning Board to act as Lead Agency.
5. The application made by Wal-Mart has been the subject of a thorough review under the State Environmental Quality Review Act with the Town of Newburgh Planning Board acting as SEQRA Lead Agency.
6. As SEQRA Lead Agency, the Town of Newburgh Planning Board adopted a SEQRA Negative Declaration for the proposed project with Reasons Supporting Negative Declaration on or about March 4, 2004.
7. On or about April 1, 2004, Wal-Mart amended its Site Plan Application to include a request for Special Permit for a gasoline filling station.
8. The SEQRA review conducted by the Town of Newburgh Planning Board included the proposed gasoline filling station.
9. The Site Plan Application and a prior Wal-Mart concept plan have been the subject of several Planning Board meetings and the subject of a duly noticed public hearing held on May 12, 2004.

10. The Site Plan Application was referred to the Orange County Planning Commission under the provisions of the General Municipal Law and such Commission has recommended approval of the application with modifications.
11. The applicant through its engineers and other consultants has provided extensive documents and information to the Planning Board and to the Town Consulting Engineer.
12. The Planning Board and their consultants have reviewed all Site Plan Application materials and revisions to such materials in accordance with the provisions of the Town of New Windsor Zoning Law, Chapter 48 of the Code of the Town of New Windsor including Article V, § 48-19 Site Development Plan Review by Planning Board, § 48-19.1 Special Permits by Planning Board and § 48-21 Supplemental Use Regulations and in accordance with the authority granted by New York Town Law §§ 274-a, 274-b and 276.
13. The Wal-Mart request for Special Permit for a gasoline filling station meets all the applicable and relative criteria of the Town of New Windsor Zoning Law and its provisions, including:
 - A. All proposed structures, equipment and material for the gas filling station is readily accessible to fire and police protection
 - B. The proposed gasoline filling station is of a location, size and character that is appropriate for both the Zoning District and the property in which it is situated and will not be detrimental to the orderly development of adjacent properties.
 - C. The proposed gasoline filling station as shown on the Site Plan will not hinder the appropriate development of adjacent parcels.
 - D. The proposed gasoline filling station meets all the criteria set forth in §48-21(I) of the Town of New Windsor Zoning Law.
14. The Wal-Mart Site Plan as revised through May 12, 2004 meets all of the applicable and relevant criteria in the Town of New Windsor Zoning Law and its provisions, including:
 - A. Location, arrangement, size, design, and general site compatibility of buildings, lighting and signs.
 - B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, grade alignment and traffic controls.
 - C. Location, arrangement, appearance and sufficiency of off-street parking and loading.

- D. Adequacy of the interior circulation system to provide a safe environment.
 - E. Adequacy and arrangement of pedestrian traffic access and circulation, including intersections, road widths and traffic controls.
 - F. Adequacy of stormwater and drainage facilities.
 - G. Adequacy of water supply and sewage disposal facilities.
 - H. Adequacy, type and arrangement of trees, shrubs and other landscaping such that it is in character with that generally prevailing in the neighborhood.
 - I. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - J. Overall, the Site Plan has taken into account public health, safety, welfare, and comfort and convenience of the public in general, and the users and neighbors of the development in particular.
- 15. The Planning Board has given careful consideration to all comments for and against the proposed project.
 - 16. The Planning Board on March 24, 2004 accepted and adopted the Negative Declaration as prepared by the Town of Newburgh Planning Board, as the determination applies to the site plan, lot line change and special permit applications before the New Windsor Planning Board.
 - 17. The Planning Board members are personally familiar with the project site.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. The Lot line change requested by Wal-Mart (NWPB Application 03-32) as shown on the drawing titled Lot Line Change, dated April 1, 2004 is approved subject to the following conditions:
 - That the final plan submitted to the Board for stamp of approval be subject to a final review by the Planning Board Engineer for compliance with all requirements previously determined by the Board and its engineer.
 - That the applicant pays all fees applicable to the application's approval.

BE IT FURTHER RESOLVED THAT:

2. The Special Permit requested by Wal-Mart for a gasoline filling station (in connection with NWPB Application 03-33) as shown on Site Plan drawing prepared by APD Engineering dated September 16, 2003, last revised February 24, 2004 is hereby approved.
3. The Site Plan requested by Wal-Mart (NWPB Application 03-33), as revised through May 12, 2004 is hereby approved subject to the following conditions:
 - That the final plans submitted to the Board for stamp of approval be subject to a final review by the Planning Board Engineer for compliance with all requirements previously determined by the Board and its engineer;
 - That the improvements to Liner Road include, in general, the reconstruction of such town road from the area of the State highway to a location 100 ft. beyond the site access to the town road, with the scope and detail of such work to be as approved and accepted by the Town of New Windsor Highway Superintendent and Planning Board Engineer;
 - That such improvements to Liner Road be performed after all earthwork has been completed and a substantial amount of the construction activities at the site are complete (since it is the Board's understanding that the Liner Road access will be utilized for construction activities), so as not to damage the proposed improvements;
 - That the improvements to Liner Road will be complete before any Certificate of Occupancy is requested;
 - That the Town of New Windsor Planning Board receive confirmation from the Town of Newburgh that sewer and water service is being provided to the overall project from Newburgh, and no such facilities are required from New Windsor;
 - That the applicant receive Final Site Plan approval from the Town of Newburgh Planning Board;
 - That the Applicant shall be responsible for obtaining and maintaining all other permits and approvals that may be required for the project from other agencies with jurisdiction including, but not limited to, the Army Corps of Engineers for any impacts to wetlands, and the New York State Department of Transportation, prior to issuance of a building permit.

- That the applicant prepares a bond estimate of key site improvements associated with the site plan, in accordance with Chapter 19 of the Town Code, and the estimate to be as acceptable to the Planning Board Engineer.
 - That the applicant pays all fees applicable to the application's approval.
4. A copy of this Resolution shall be filed with the Planning Board Secretary and the Town Clerk and shall be made available to the Applicant.
 5. The Chairman of the Planning Board, Code Enforcement/Zoning Officer and Town Clerk are authorized and directed to take all steps necessary and appropriate to implement the intent of this Resolution.

Motion made by Member MR. ARGENIO

Seconded by Member MR. LANDER

Vote 5 For 0 Against

Dated: May 12, 2004

The above Resolution duly adopted on May 12, 2004 by the Town of New Windsor Planning Board.

By: 

James Petro, Chairman,
Town of New Windsor Planning Board

SUMMIT-ON-HUDSON (PLUM POINT CONDOMINIUMS) SUBDIVISION
(03-35)

John Cappello, Esq. appeared before the board for this proposal.

MR. PETRO: Application proposes formal subdivision of the southerly portion of Section 6 of the Plum Point condo project into two lots. The application was previously reviewed at the 12 November, 2003 planning board meeting. The application is before the board for a public hearing at this meeting. Currently, the phase 4 property is split by the school district line and is therefore listed as two tax lots, the northerly tax lot contains residential units for the condo Phase 4 and the southerly lot is vacant. This application proposes to formally split the property into two individual approved lots other than the school line making them different lots. This is an official subdivision, okay. We had requested that the plan, resubmital plan include bulk table as well as title block. This is needed for compliance of the lots. Information for the condo lots should be a total all phases as the planning board and zoning approval looks at the total site. Has that not been done?

MR. EDSALL: This is, I don't believe we had a resubmitted plan that I've seen.

MR. PETRO: This is the same plan we looked at in December, is what you're saying?

MR. EDSALL: I believe so, so still some clean-up work that needs to be done on the plan but under 3 I've got some comments, John can just on the record make sure.

MR. PETRO: Who's here to represent this?

MR. CAPPELLO: John Cappello, attorney with Jacobowitz and Gubits, we did submit plans.

MR. HALBERTHAL: Izzy Halberthal, I'm the developer.

MR. PETRO: Developer owner?

MR. HALBERTHAL: Yes.

MR. PETRO: Thank you. Is this the same plan we saw in December?

MR. EDSALL: No, there was the one subsequent that Myra had distributed was March.

MR. CAPPELLO: Right, March and that does have the zoning table on it.

MR. PETRO: Planning board previously assumed the position of lead agency under the SEQRA review process. We have fire approval on 4/13/2004 and that's it. All right, John, go ahead.

MR. CAPPELLO: This is just for reference, this section 6 of the Plum Point project as stated earlier there are 55 units built on what's proposed to be lot 2, so all the units are within the Town of Newburgh school district. There's a lot line that was the school district line separating the Newburgh and Cornwall school district. What we're looking to do is not build anymore units, but the condominium HOA documents submitted for Phase 5 and 6 incorporate this area only, this area was not incorporated, it almost sits as a separate lot, we just want to officially subdivide it off as a separate lot.

MR. PETRO: I asked you this question before, I know I've asked it a couple times. Why?

MR. CAPPELLO: Many different reasons. One is to allow him to make it easier for financing for the condo to correspond the sections to what's actually owned,

number 2 is it may be offered and it could be developed in the future, would have to go through site plan approval, go through the board obviously start from scratch.

MR. PETRO: Maybe offered for sale?

MR. CAPPELLO: Certainly could be.

MR. PETRO: Where is the frontage on the new lot?

MR. CAPPELLO: The frontage is on Lafayette Drive, improved portion comes to right about here, then the rest is a paper street that goes--

MR. PETRO: Again, I go back to the same question again we're creating a lot or would be creating a lot, back to my train of thought, you're creating a lot without road frontage, it's not on an approved road so if I want to get--where is the improved road frontage?

MR. CAPPELLO: Well, the key here for this lot because it's in an MR zoning district and we did agree--

MR. PETRO: What kind of zoning district?

MR. CAPPELLO: R-5 multi residence.

MR. PETRO: We don't have an MR.

MR. CAPPELLO: It's multiple family, so any development of this lot would require to come back to you for site plan approval to make sure the access is suitable. Part of that site plan approval you may tell the guy he's got to build a road or come in and do something different if it's developed or doesn't look like it's too practical but this kind of exits out there anyway.

MR. PETRO: I'm still very, very confused, I don't understand how we can create a lot.

MR. CAPPELLO: Well, you can create a lot, it's a road, it's a Town of Newburgh paper road.

MR. PETRO: I understand that very well. How much frontage do we need to create the lot, Mark? What's the frontage to have a lot in the R-5 zone? Is it 100 feet, 200 feet? What's required frontage?

MR. EDSALL: It's for a multi-family it's only 15 but we've walked this road in the past, we've explained at the workshop and I believe at a previous meeting that for this lot to be approved, meaning lot 1 they would have to at least improve the road in front of that portion on the north side of the lot so they would have to actually build the Town road to get frontage on the one access location.

MR. CAPPELLO: Which is about 119 feet.

MR. PETRO: You're already down to that point.

MR. CAPPELLO: This is where the road, the improved portion ends.

MR. PETRO: You need to go another hundred feet so we have 100 feet of Town road.

MR. CAPPELLO: That's what fronts upon that that we'll provide access, you know, onto there.

MR. PETRO: That's what you're planning to do?

MR. CAPPELLO: If that's a condition, we would.

MR. PETRO: It has to be a condition, how can you have a lot without an access plan?

MR. CAPPELLO: Well, the thing is you can't use it unless you put, okay, that's it.

MR. PETRO: You want to ask me something?

MR. LANDER: Yeah, if this is a paper road, it was never dedicated to the Town of New Windsor?

MR. CAPPELLO: No, it would be dedicated as shown as the filing of a subdivision map constitutes an offer of dedication.

MR. LANDER: Right but before that there was no offer of dedication so in reality, your client still owns that road?

MR. CAPPELLO: I don't know if he owns the bed of the road.

MR. LANDER: Somebody owns it, Town doesn't own it.

MR. CAPPELLO: You may, you may not think it but the filing of a subdivision map in and of itself constitutes an offer of dedication for the road so it would be.

MR. LANDER: So continue the road for 119 feet.

MR. PETRO: You're not planning to build anything on it at all at this time. I understand that you're not here for site plan at all?

MR. CAPPELLO: No.

MR. PETRO: Strictly to recreate the other lot, all you're doing is following the school line, the school tax line right over top of it, that crazy line?

MR. CAPPELLO: Right.

MR. PETRO: Did I or did I not ask you to look at straightening that line out and, whether it would be

beneficial or is there any reason to follow that line, I mean, it's a pretty crazy lot line.

MR. CAPPELLO: Well but because it's a condo, it's a little bit different, you're not going to be selling pieces off, this is all owned in common ownership, not like somebody is going to try and subdivide this. There's HOA documents and everything filed showing this as being owned by these folks, so to change this line would entail going to the school districts to have them change it because then if you--

MR. PETRO: It's not necessary, I'm just curious as to why do you need to go to the Attorney General's office to file?

MR. CAPPELLO: No, this has been filed.

MR. PETRO: It's already filed the way it is?

MR. CAPPELLO: Yes.

MR. PETRO: Mr. Chairman, just for the record, we did reference the plan that we all agreed was the latest one and they did provide as we asked an evaluation of all the areas of the Plum Point project, the site plan to verify that even with this lot 1 as they're showing it subtracted their density is still in compliance, Mike and I just checked that and they did provide what we asked.

MR. PETRO: So in reality, other than the 119 feet of road frontage that they need that's basically the only--

MR. LANDER: Let's not nail ourselves down.

MR. PETRO: Whatever is required.

MR. LANDER: Whatever it takes.

MR. PETRO: Is that a number that's definite, 119 feet?

MR. CAPPELLO: I just took it off this section here, the existing frontage according to the code we can build it because it looks like this person built it to the property line, if we built it to the property line and met the requirement I think we would.

MR. BABCOCK: If they had 50 feet and brought a road into this piece of property with a 50 foot would be enough.

MR. EDSALL: They just need to have a physically improved road in front of their access point.

MR. CAPPELLO: Realizing though also that 50 foot would entitle potentially the owner of the lot to claim they can build a home on it.

MR. PETRO: She's telling me the last times I went through the same thing, I'm repeating myself was 125 feet is what we asked for, that's what we want, 125 feet of improved road on the front of the property, let's use that number. It's very close to what you're talking about anyway. What are you going to do on the end of the road? You're going to just leave it? How are you going to treat the end of the 125 feet?

MR. HALBERTHAL: One single-family house. Maybe one single family home over here, this is a lot by itself.

MR. PETRO: But it's an active road at the time so somebody drives down this road, where do they turn around? What's there if I drive down that road right now, how do you turn around?

MR. CAPPELLO: This exists as unimproved.

MR. HALBERTHAL: There's something there, I don't know

what it looks like.

MR. EDSALL: What we'd look for, Jim, is that they would have to improve the road at least 30 feet passed wherever their driveway is, access to their whatever improvement they propose, so that if anyone comes down the road, wants to turn around, it would be like an L shape turnaround, pull in the drive, back in the turnaround area and pull away because there's no room for a cul-de-sac, Town doesn't own that property but we can make an L-shaped turnaround at the very end until such time that the road was looped through.

MR. PETRO: I might drive down there, I want to pick berries, what am I going to do, I want to turn around?

MR. EDSALL: You'd have the L shape of the driveway and the stub of Town road which allows the Town to plow beyond and then back up.

MR. PETRO: So it's 125 feet and you're going to construct this L-shaped turnaround?

MR. CAPPELLO: The question is if we went 30 feet from the property line, constructed a driveway and then went 30 feet because realizing that if this is ever developed for more than one home, then everything's up for grabs, again, you may want, I don't know what you would want at that point, we just wouldn't want to restrict it now cause we're just creating a lot, the actual access if it was ever developed for more than one house at that point would be looked at by site plan approval and there may be much stricter additional requirements that you'd want.

MR. PETRO: I'm going in a circle, so let's do it one more time, try it one more time. Mark, you need to sit with these gentlemen, come up with a required road frontage for a lot in R-5, that's what they need to have, plus a turnaround, if it's L shape that you feel

that's fine.

MR. EDSALL: Do you want to stick to the 125 cause if you require 125 there's no problem.

MR. PETRO: Yeah, let's just stick with that within reason, in other words, if you need to shift something a few feet but it's 125 feet with the turnaround, maybe they can put the driveway inside of that, not have to go passed it and then use the back end of it.

MR. EDSALL: Exactly, that's exactly how we're headed at this point is that with 125, it gives them this entire strip of frontage to access wherever they desire, other than at the very end.

MR. PETRO: Find out about easements on driveways of existing houses easement from where do you have any easements there, all right, just passed that. What we're going to do is I want to, any board members have anything right now? Let's open it up to the public. I want to get some comment from them then we'll come back. Okay, on the 21st day of April, 2004, 18 addressed envelopes were mailed with the notice of the public hearing that we're having tonight. Someone here to comment for or against or just want to make any type of comment on this application, be recognized by the Chair, come forward, state your name and address and your concern. Before I recognize anybody, I want to explain one thing, just to try to diffuse any confusion, this is not a site plan, this is not a plan to build anymore condos, this is not a plan for expansion of anything. All we're simply doing is following that line that already exists, which is a school tax line and creating this lot separately from the lot of the fourth part of that subdivision. So we're not creating any buildings. There's going to be not one more building, as you just heard with me with the road, the road that has to be made so you can turn around in the future if someone were to come in, want

to develop that property, it's an R-5 zone, same as where you live now, there would be a complete site plan process to go through, complete, much more complicated than what you see here tonight. It would take a long period of time, there'd be another public hearing. So it's a long way to go. The reason I bring that up is because I'm sure somebody is saying we don't want more houses, however that may be down the road, I'm not saying it may never happen, but it's not tonight. All we're doing tonight is taking the one piece of property and making it two right along the same line line that already exists on that map. Okay, now, with that, I want to see a show of hands. Anybody who'd like to speak?

MR. LATHORES: My name is Manuel Lathores, I believe I have an easement on the road there at the end of the road and Lafayette Drive, that's my driveway so to speak.

MR. PETRO: Can you show us where you live on that Map?

MR. LATHORES: It's hard to see if you didn't put my house anywhere, I don't see my name, if this, if that's Lafayette Drive over here, there's a dropoff quite a few feet, house is here, my house is here, my driveway is unimproved but I improved it so I have--

MR. PETRO: You're not in the condos, your across is the street behind over here and your concern is that Lafayette Drive if it's ever improved you have an easement to use it?

MR. LATHORES: Well, I have an easement now.

MR. PETRO: And you want to use it?

MR. LATHORES: Yeah, I park there overnight.

MR. PETRO: It would be a Town road so whenever this would be built out, it can't be a private road, it's going to be a Town road it's already a Town road and you would certainly have access to the Town road. So I don't really see it, frankly, as a problem, it's a Town road, you're going to be there, your driveway already enters onto it.

MR. LATHORES: Right.

MR. BABCOCK: His driveway travels along the area that we're telling them that they have to improve so right now, his driveway, he comes down Lafayette Drive, goes off the end if you will, Town blacktop onto a dirt gravel road.

MR. PETRO: I think it's very simple, if there's a road there now, if there's driveways there now and you're improving it you have to give him access with the curb.

MR. BABCOCK: He has access because it's a Town road.

MR. PETRO: But it should be improved if they're going to improve the road with curbing.

MR. BABCOCK: They're going to improve his driveway if you will.

MR. PETRO: Correct, they have to include anybody that has access up to that point. If you're on the other side down towards the tennis court and they're not improving that then it has nothing to do with it.

MR. LATHORES: They're going to take a piece of my property also because it's a very narrow strip and there's a big dropoff, they're going to have to put a lot of dirt to make it wide enough.

MR. PETRO: It's either the Town's property or it's your property, they cannot go on your property if it's

the Town property.

MR. LATHORES: Can't take 78 feet?

MR. PETRO: No, they cannot touch your property now, if there's an easement to go on your property, that's what they do, but they can't go on your property, start filling it in, taking care of it.

MR. EDSALL: Jim, it may be beneficial since this is an issue that we really have to have nailed down before we can have them improve that section their surveyor should show just not the metes and bounds of the 50 foot strip on their side, they should show the limits of Town road and verify that that's in Town property.

MR. PETRO: I think at the last meeting we asked you to show both sides of the road, it's one of my comments and I see the same comment from Mr. Kroll who is the highway superintendent, if you had shown both sides, the houses and those driveways, this could be more easily resolved.

MR. EDSALL: I want to make sure that it was an offer of dedication, the Town may not literally own it at this point or if they do own it, I want to know that for a fact so we can tell you yes or no.

MR. PETRO: Find out.

MR. EDSALL: Their surveyor can go back and research it to see if this is listed as a Town owned property, same as McNary when we went through with McNary Drive.

MR. SCHLESINGER: How does he have an improved lot without a road?

MR. EDSALL: How does he have, this gentleman?

MR. LATHORES: I have an easement.

MR. EDSALL: A lot of strange things happened in the past.

MR. LATHORES: From Lafayette Drive.

MR. BABCOCK: He has no easement.

MR. EDSALL: If it's Town property, he's driving over Town property.

MR. PETRO: Do you have access any other way to 9W or any other road already?

MR. LATHORES: No, the only way to get in is through Lafayette and down my driveway, but I have to insure that road also, that's on my insurance, I insure that road, I pay taxes on that road.

MR. PETRO: So we have a question, Mark, we have a question of ownership.

MR. EDSALL: They have to verify that for us, we'll make sure you're not cut off.

MR. CAPPELLO: We won't, we'll look tonight.

MR. PETRO: You can't really lose if it's a Town road, you have to have access and you're going to have access through your driveway going on a Town road. If it's not a Town road and in fact somebody else owns it or you own it then they can't improve it anyway, if they can't improve the road and give us the 125 feet of frontage or legal frontage, we have the ability to, then they can't do it anyway. So I can't see how you can lose, in other words, either going to be a Town road, you have your access or is it the way it is until something else changes, they can't go build a road on somebody else's property. I just assumed and I have here 25 times that Lafayette road is a Town road. Now

we don't know. Is that the thing, we don't know now?

MR. EDSALL: That's everyone's belief but I want to see it on the plan and verified.

MR. LATHORES: See what I'm just trying to understand is that the road where it ends is very narrow, there's a lot of dropoff where my driveway is, just goes straight down, are they going to come in and take a piece of me and my neighbor's yard just so they've got a nice solid base?

MR. PETRO: They cannot take a piece of your yard, if by your yard you've been using it and it's Town property through an easement or just by deed of the road.

MR. LATHORES: No, I have it like with the flags and stuff.

MR. PETRO: They can't go on your property now, sometimes to build things, there's a grading easement that maybe they may come to you and say look, we're going to improve this road here, it's going to be 30 feet wide, it's a Town road, we're going to give you curbs into your house, do you mind if we grade 15 feet so we can grade and get that accomplish? That might be between you and them, sometimes good things happen if two people are thinking good things. If not, then I don't know what to tell you, then they can't do it and you may get more of a crap job, that's the best way I can tell you. But first we need to nail down is who the hell owns the road? Why are we here if we don't know who owns the road?

MR. LATHORES: From what my deed says or whatever this road is supposed to go all the way around like a circle almost and that's what they said.

MR. PETRO: It does go through but I'm not getting into

any of that for one simple reason, this is not the place for it because all they need is the 100 feet that I'm asking, for 125 feet.

MR. LATHORES: This way?

MR. PETRO: Anywhere they want to give it to us, if we want access.

MR. LATHORES: To this lot?

MR. SCHLESINGER: The whole area.

MR. PETRO: But where you have your pen, that's the lot we're talking about.

MR. LATHORES: And this is my house.

MR. PETRO: Yes, so I wouldn't be too unhappy yet cause you may get a real nice job out of that and you may be very happy.

MR. LATHORES: Well, they're going to build on top of that lot.

MR. PETRO: Not at the time right now, we're only looking at taking it and creating the lot which in reality already exists by virtue of the school line. So we're going to go over top then at sometime in the future, you have to understand that the property is zoned R-5 which by law is 6 units per acre, approximately, if somebody comes in and wants to develop it in that manner, our board is not to say yes or no but how. So we have no control over that. But it will be a long tedious process. At this particular time, there's a water moratorium in the Town, they couldn't get the water anyway, so I can tell you for sure that it's going to be measured in years, not within weeks that somebody would be down there. At this time, we're only looking at the subdivision and

that's it.

MR. LATHORES: No clearing of trees, nothing like that?

MR. PETRO: There, well, at this particular, they cannot clear the trees because it's an active application before the planning board. Once the planning board process is over, they can certainly cut the trees off their property if there's no active application but that's true anywhere in the Town.

MR. LATHORES: Just want to present to you and then just for the environmental.

MR. PETRO: I'm reading this, why are they subdividing the two acre parcel? You probably heard me ask that. I have asked it ten times so far but again, if somebody has a large parcel of property and they want to make two lots and they have proper access, that's their right to do that and certainly not to hurt anything. How big will the two parcels be? It's obvious, you can look at the plan. Are there plans for each parcel? We already know the plans for the front parcel, half these people probably live there which is number 4, correct?

MR. CAPPELLO: It's section 6.

MR. PETRO: Well, whatever it is, that's one half of it, the other half you and I just discussed, it's R-5 and some day in the future somebody can come in. SEQRA process they'd have to go through the entire process on the new parcel so that's, that's a long--has the environmental assessment form been filled out? Again, this is a lot line.

MR. EDSALL: Minor subdivision, I believe they've got a short form in.

MR. PETRO: We did circulate for lead agency and a positive dec or a negative has not been done because we

usually do that after the planning board has a public hearing to get input, you may say hey, there's a spring there and we have to go down and take a look.

MR. EDSALL: Jim, at this point because it's an unlisted action and because there are no other involved agencies, we have not circulated, there's really no one else involved.

MR. PETRO: We probably will do a negative dec only because there's nothing there, there's not going to be any reason, it's certainly not a wetlands that I would be aware of up on that hill. Do you have anything else?

MR. LATHORES: No, thank you very much, Mr. Petro.

MR. PETRO: We'll keep an eye on it.

MS. LIVENGOOD: Dawn Livengood, 47 Lafayette Drive. My mother's here, she technically owns the house. First of all, we don't even understand why our names, we've got the papers because you want to go in front of our homes, our names aren't here, we live directly right here and where you're saying you want to go. If there isn't an easement, we're on septics and the way they built the homes, our septics are in our front yards, so if they went in, we have no leach field. Where is the septic tank supposed to go?

MR. PETRO: Well, keep in mind your septic tanks and your leach fields and lot of times I give people answers that they don't want to hear.

MS. LIVENGOOD: Ours are in the front yard, when they didn't finish the road completely, we were probably like the last house built, the way they ran the water lines everything is opposite of everyone else's on the street and our septics are in our front yards.

MR. PETRO: You feel that they're in on Lafayette Drive you're saying?

MS. LIVENGGOOD: Well, where like where Manny's driveway, well, it's part of the Town where they made him be able to get to his house if they came in and took property if you're saying like there's an easement because I don't know how far in you can go but if they do that you're right on top of our leach fields.

MR. PETRO: Keep in mind they can't take property. In other words, the property is, say they're going to be owned by the Town or it's not so your leach field would be on Town property and you would have a serious problem or it's not going to be there and you don't have a problem.

MS. LIVENGGOOD: That's where they built them when the homes were bought, that's not the people's fault, that's how the Town allowed it to be built in the first place.

MR. BABCOCK: Her septic field is not underneath that guy's driveway, that's--

MS. LIVENGGOOD: But if they take--

MR. BABCOCK: They're not taking anything from you or your neighbors.

MR. KARNAVEZOS: If they're going to make a road, they're going to make it on their piece of the property. What the Chairman said they might have to be in a hair on your, a little bit on your property for grading purposes but it's not going to affect your septic or your leach fields. If it's going to affect your septic or leach fields, they're not going to be able to do it.

MS. LIVENGGOOD: Well, I also have letters, they're from

these people right here which also this person doesn't even live here anymore so I don't know why this name is on here and why ours aren't here and we received letters.

MR. PETRO: They should be, we had requested that they be.

MS. LIVENGGOOD: Because we got other people on the street came with us that didn't receive letters, we did, and we're not listed and this isn't who lives in this house right now. And I have letters for these people on all kinds of issues with this. Nonetheless, number one, the noise that's going on, these people have been building over there, I believe Myra told me since 1988, but for the past last few years, you cannot even sit out in your yard at all six days a week without noise, it's horrible, ungodly horrible and they're just right now they're right here but you have been starting to drive the trucks down here and dumping dirt down here and it's all day long, it's horrible. And there's wetlands down here and the railroad track is down here, I don't understand why anybody, our windows shake right here and there are animals and important things that live in here and I don't think that this is right and I have letters from these three people here that who could not attend if you'd like to see them.

MR. PETRO: Well, again, this subdivision which is just a two lot, see that crazy line I kept pointing to, all we're doing is creating the two lots, the big one and that one that you just pointed to at tonight's meeting and we're not even going to get that far because as far as I'm concerned, the plan is not complete so I'm not taking any action tonight.

MS. LIVENGGOOD: We're concerned already that you're saying he can go in and start cutting trees down and we have environmental people that want to come down here

and look and I don't think they should be allowed to do anything until people can go down there.

MR. CAPPELLO: Can I clarify one thing? We're not cutting down, it got said that if we didn't apply anybody in the Town of New Windsor could go cut down trees on their property but we haven't and I think that was the response, there's no application before, no consideration, nothing to cut or do anything on this piece of land.

MS. LIVENGOOD: People are back here dumping things.

MR. CAPPELLO: We'll look into it but the plan we're here before the board if there's a problem, I'll take your name, we'll listen to you.

MS. LIVENGOOD: We have a concern with over here, you have a water pit, it's some kind of runoff water, there's green vegetation, it's not fenced in, I mean, that's a perfect breeding ground right there.

MR. PETRO: Young lady, we're getting away from the point.

MR. SCHLESINGER: The gentleman that was here that spoke before, you, in order for you to pull in your driveway you go passed his house?

MS. LIVENGOOD: No, we're a duplex house, when you come down the road here, our house is here, Manny's is here, we're connected, we have a driveway then there's a stop sign, he drives, he has to go over the swale in the road and they graded it out for him to park his car because they're talking about the paper trail of the road where it never went on the circle, actually on the paper trail there's a thing from his house because the man who used to live there years ago to be able to drive up between these two houses there.

MR. SCHLESINGER: My question is if you live in a duplex and Manny's access to his part of that duplex is a little bit around the corner there, is that right?

MS. LIVENGOD: It goes down in front of our house.

MR. SCHLESINGER: Is there anybody else after that?

MS. LIVENGOD: There's a house down here on the other end of the street.

MR. BABCOCK: They come in the other side.

MR. SCHLESINGER: There's nobody else after your duplex, there's nobody there?

MS. LIVENGOD: No, the last house over here, the road is not paved either, she's a dirt road, but I don't know if you'd like to look at these letters from the three people that could not attend, they'd like you to look at it.

MR. PETRO: They'll be in the permanent record, give them to Myra.

MR. EDSALL: Before I forget, we'll go on record with the applicant asking for them when they get the additional information regarding metes and bounds of the Town roadway or in the case of one portion it's a Town road, the other case it's a Town property, it's our understanding could you please extend the topo out over across there so we can verify whether or not it's possible to build the road?

MR. CAPPELLO: And also I was going to say if once we get the information if you want to go and--

MR. EDSALL: I'm going to do--

MR. CAPPELLO: On site to actually eyeball it with the

topo and determine where the most appropriate way to go is.

MR. ARGENIO: You're going to draw the lot lines on the plan that are across the street as well, put the names on there? I think that will take about, maybe could eliminate 20 minutes of this conversation.

MR. PETRO: I'm this close to closing the public hearing and closing up the plans. I'm not going to do it because I don't want to be ill tempered but we asked you last time and I know I did to have everything on this plan, this is a crap plan to have before a public hearing. They're asking me and I don't even know how to answer them because I can't see it. I don't know what's down there. I should know where his driveway is here, we're going to put 125 foot road in front of it. I go both ways, I go with your headaches and against your headaches, so I try to be very fair for everybody as far as the trees are concerned, man owns the property, if he's not before this board with an active application if he wants to make it look like your head, that's his business.

MR. CAPPELLO: Is it getting redder?

MR. PETRO: That's your business for your own land, not just for us. But once there's an application, then what you're saying this lady here then it does become a concern, then we do take a look but not prior. You can't tell somebody they can't cut a tree down on their property. This isn't--

MR. ARGENIO: At least we can't.

MR. PETRO: This isn't Europe somewhere. Anyway, listen, the public hearing is still open, so in case, I know this lady has been waiting, but I'm very unhappy with this plan tonight for the public hearing. Go ahead on a different subject, something that we have

not talked about.

MS. MORIELLO: Jessica Moriello. My house isn't on that map, you keep talking about this extended road of 125 feet for dump trucks, but if you're not building, what are the dump trucks doing?

MR. PETRO: No, it's a Town Road for anybody, it's going to be an extension of Lafayette Drive to Town specs of 125 feet. So this new lot, this lot that's remaining has access to a Town road, you can't create a lot obviously without access to the Town road, to a road, therefore, that's why we're building it, it's for anybody, you can drive down there with the Volkswagon.

MS. MORIELLO: To go out 125 feet and have it drop off after that?

MR. PETRO: Well, it would end at that point that would be, they would fulfill their requirement that we're asking them to do, as long as they give us a turnaround like we explained earlier, then later if nobody ever comes in, I don't know if he sells this lot or keeps this lot, it could be developed in R-5 fashion, in other words, six units per acre.

MS. MORIELLO: If it's developed later, would those trucks be able to use our street to gain access to that lot?

MR. PETRO: Absolutely, it's a Town road, it's not your street, it's a Town road.

MS. MORIELLO: In other words, I live on a Town road.

MR. HALBERTHAL: What are you talking about trucks?

MS. MORIELLO: Every single day I hear the trucks, they're filling in a road that they can get in there and work on the property.

MR. LANDER: They're building a construction road?

MS. MORIELLO: They're building a construction road.

MR. LANDER: So they're not using Lafayette Drive?

MS. MORIELLO: Right here you're building a construction road.

MS. LIVENGOOD: On this side of the road over here, I have a letter from her, would be the dump trucks are filling in a road so they can get into where it's not filled in.

MR. HALBERTHAL: Into this property?

MR. BABCOCK: We need to look at it.

MR. PETRO: The building department will be down there tomorrow, we'll find out where they are.

MR. SCHLESINGER: There's a gray area here, a misunderstanding, it doesn't matter what it is, Mark will be down or Mike will be down there and we'll evaluate it.

MR. BABCOCK: This lady here just showed me it's on their property where the condo, Plum Point condos is, she thinks that maybe accidentally they came, truck came down Lafayette one time.

MS. MORIELLO: No, it's not on Lafayette.

MR. BABCOCK: She was pointing to the wrong place.

MR. EDSALL: It appears--

MR. PETRO: It's confusing to me and I'm here 14 years, I don't know what the hell I'm looking at either.

MR. BABCOCK: I'll go there tomorrow.

MS. MORIELLO: They're filling in a construction road without saying they're filling in a construction road.

MR. CAPPELLO: I know it's confusing and I don't want it to be, I want to try and answer questions. I wasn't here, I apologize, I didn't understand that this was that big of an issue, but it is. So if the board keeps the public hearing open, we'll set a date where we can get this information in, we'll contact these folks.

MR. PETRO: I don't want to keep it open, there's no reason for that. I know what their concerns are, I know exactly where to go. You're going to build 125 feet on your property and whoever's opposite or on that road is going to have access by curb cut onto the Town road, which is common sense. I cannot go on their property, you can't touch their property, if you want to get together with that man and he wants to give you a little easement, give him some nice curbs, God bless you, but we want 125 feet Lafayette Road for this lot and we want to know what's on the other side of the road and what you're doing. It's very simple. I don't see any problem with the subdivision but we need to get that, if that road was already existing, we probably would have done a long time ago. Any other with a different subject other than something--

MS. CONKLIN: Catherine Conklin, I live on 9 Lafayette Drive. Right now, it doesn't affect me but my concern is they enter, they can go in and out of Lafayette Drive, we have a problem now, we have a problem with Toyota, okay, we have children who cannot even play out on the road. They test drive the car and race like a maniac. I have reported it a number of times to the Town. Number two, we have the Irish bar on the road, they come down there, they're half drunk, they hit one of my neighbor's trucks, they come out of there, you

should of seen the place St. Patrick's Day, I had to call the cops three times. My neighbors had to call the cops, they were parked all over the place, didn't care where they parked, they parked.

MR. PETRO: Doesn't Mr. Luellen live there?

MS. CONKLIN: Mrs. Luellen is right there.

MR. PETRO: I went to school with your son. Nobody cares about that but me and her.

MS. CONKLIN: I don't believe as many cars was equipped to go in that building, there has to be some kind, how many people can go in a building at one time? Now you should of seen the cars were up and down the road, 9W, they were parked on both sides of Lafayette Drive coming down.

MR. PETRO: From the bar?

MS. CONKLIN: Number two, my neighbor got his truck hit from one of them. Number three, I was told we were reassured that there'd be no tractor trailers coming down the road. Every night that tractor trailer wakes me up, you call the Town, they say oh, no, no trucks coming down there. We want to know how much traffic is going to be on our road? We got too much as it is, children can't play.

MR. PETRO: Some of what you're saying frankly are police matters, I would call, the truck doesn't belong there, call again.

MS. CONKLIN: We were reassured that Toyota would not have an entrance to Lafayette Drive, the Town said everybody received a letter, not one person received a letter.

MR. PETRO: Is their an entrance?

MS. CONKLIN: Two of them.

MR. PETRO: Can we pull the site plan and take a look at that?

MR. BABCOCK: Sure.

MS. CONKLIN: There was never, they reassured us they would not enter our road.

MR. PETRO: Thank you for being patient, I know we're off the lot line.

MS. CONKLIN: I'm concerned about how much traffic.

MR. PETRO: We're going with you, we'll take a look at it. What you really can do, you can come here to Myra's office right here in Town Hall and pull the site plan out for Toyota.

MR. BABCOCK: I'll do that, Jim.

MR. PETRO: Maybe some of the people if it's on the plan that's what it is, if it's not there, we can do something about it.

MS. CONKLIN: What I'm saying is the Town said that everybody on the street received a letter to come to that meeting, not one person on that whole street received a letter to deny that entrance, not one. Now somebody--

MR. PETRO: It's adjoining property owners only so it would not be the whole street, should be adjoining property owners.

MS. CONKLIN: If they're using, having an access to the road, that means there's going to be more traffic.

MR. PETRO: Yes, your problem is not unique to you, this is an ongoing problem that's through, it's all over the place and again, I'm very unpopular when I tell that stuff because I can't get out of my own road. When I first moved there, there was six houses, now there's 16. Once I shaved before I even got out of there, it's horrible.

MS. CONKLIN: There's only one entrance in and out that point we're concerned about.

MR. PETRO: But if the Town road exists and you own property on a Town road, you or Mrs. Luellen or anybody else in this room has a right to develop their property to the extent of the law. And that's what we can do. We're an administrative board, we're not a judiciary board which simply means we apply the law the way it's written, we do not make the laws. If someone comes in and they have a parcel of property down there that's permitted to put up ten condos and they meet every aspect of the law, they have the same right to that road as you did and, as she did and I do. We cannot say arbitrarily no, we can listen to comments about water drainage, lighting, there's a lot of things we can do but you cannot tell somebody no.

MS. CONKLIN: I understand that. What I'm saying is that this has happened to us down on Lafayette Drive so we're not reassured that this isn't going to happen again.

MR. PETRO: As I said early on, I'm repeating my own self, this is only for the lot line change, this is not a site plan of any kind so if there were ever to be more development on that property, you've got a long road to hoe, no pun intended, long process.

MS. CONKLIN: What if they say they sent letters out?

MR. PETRO: There's letters, they do go out, they have

to go out, I have proof here that they go out.

MS. CONKLIN: I'm telling you not one of us received a letter about Toyota.

MR. BABCOCK: Jim, the only time that you get letters is if there's a public hearing. Toyota there was no public hearing, nobody would be notified.

MR. PETRO: Sometimes public hearing would be waived.

MS. CONKLIN: When they put the building up, we were assured they would not have the entrance.

MR. PETRO: I know you're upset, nobody wants another 50 condos. I'm the one that the board is, the one that got the building lots from a half acre up to two acres, just to try to get rid of some density too many houses, but you can only do what you can do and again, I don't know if you have children, I have children, when they grow up, I want my two boys to have a house, that's all I can tell you, the same as you have and I have and that man has and everybody else. So it's a difficult problem. We do the best that we can when the time comes and somebody develops that property which may never be, I'm not saying somebody is going to develop it, I have a good idea this man is not going to develop that property and it's going to sit in limbo for who knows how long and you're going to get a nice new road.

MS. CONKLIN: I'm just concerned about things being done underhanded like other things have been done.

MR. PETRO: Nothing's done underhanded, it's either a mistake or just miscommunication cause there's no way to be underhanded in this Town. You cannot do it. It's the, law you have an attorney sitting there.

MS. CONKLIN: Well, you explain to me why no one got a letter about Toyota?

MR. BABCOCK: If there was no public hearing, if you come to Myra's office, you call me, make an appointment, I'll pull out the file, I'll tell you exactly what happened, I'll will show you the thing, I'll go there tomorrow and look at the plan, if there's not supposed to be an entrance, the entrance will go away.

MS. CONKLIN: At the Town when I talked to Mr. Meyers, he told me personally on the phone and he told Mrs. Byers which she passed away that he don't need our vote, he can do what he wants, but he won't say that when I come up here.

MR. PETRO: The other thing that you mentioned if they don't belong on the road, if you see them, call right away and catch them there, it's hard, if they're already gone. The Irish bar business with the parking down there, I don't know what to tell you, if I was there, I'd be pissed too but I don't know what to tell you.

MS. CONKLIN: I had to tell one of them they were going to block my whole driveway and he said go call the cops, I can park anywhere I want.

MR. PETRO: Okay, I'm not belittling your problem, we spent 15 minutes on it, we're here for a lot line minor subdivision, there are some issues that we do have with these people, the plan needs to be corrected, anybody else on a different subject?

MR. ARIF: My name is Arif, we're right next to this property which is developed, construction is going on, we lost a lot of business because of early time working, they start very early, so lots, I mean, it has been going on for the last year and we're just next to it, what they're doing is they're picking up dirt, bringing it, throwing it in there then next they come,

they pick up the same dirt and they throw somewhere next to, it's hiding all the windows which our rooms have which used to be a view of the river, anyway that's their property, whatever they want to build, we're not concerned but we're concerned about the business we're losing because people come, they don't want to be woken up at 6 o'clock.

MR. PETRO: What do you want me to do about that?

MR. ARIF: We're only concerned that they should if, they're doing the work, they should be doing it some--

MR. PETRO: There's a time ordinance in the Town, Mike, what's the time to start?

MR. ARGENIO: 7 a.m.

MR. PETRO: If they're there before 7 a.m. call the police and they'll be given a summons. Don't go there before 7 a.m.

MR. HALBERTHAL: We're never there.

MR. ARIF: Now the piling of the dirt right in front of the rooms, it's just like their property line is right where you're sitting and we're right here.

MR. PETRO: Can't you take a look at that and help his problem?

MR. ARIF: Big, big like a mountain of dirt.

MR. HALBERTHAL: We have to put dirt somewhere.

MR. ARIF: The thing is what they're doing is they're making piles right in front.

MR. EDSALL: Mike and I just discussed, we're going to make sure they're not changing the grade or creating

obstructing berms that are in violation of their site plan so we'll check to make sure.

MR. ARGENIO: That takes care of that.

MR. PETRO: But you're not being very reasonable, you know, he's here, he has a problem, work with him a little bit. The way you're acting, he's going to come, take a look at it because he's going to look at it, he will look and see what the grading problem is, you say you don't know where else to put it, you have a lot of property, take a look because the agenda could be full for a year. You understand what I'm saying?

MR. ARIF: They have cut the trees now they're making small pieces, they're lying right next to my property line on the corner and we have a snake problem there, we have called the exterminator, all the snakes are rushing to our property.

MR. PETRO: We'll take a look at that, the public hearing is getting a little, we're talking about snakes now, it's not a planning board issue. I want to, anybody else on something different? Not that snakes are not important, he's going to come take a look at the dirt, we're going to look at it. What else are you looking at tomorrow, the road itself?

MR. LANDER: No work on Sundays.

MR. PETRO: You see them down there, show him, he's going to take a look at the dirt piles. Lot of times common sense will make a lot of problems go away.

MR. EBERT: Jerry Ebert from The Sentinel, just a quick question, could you tell us the acreage that's involved in each proposed parcel?

MR. CAPPELLO: Well, this is a 15 acre parcel, two lots existing with the school, this is 8 acres which

contains the 5th and 6th but the whole Plum Point project is 42 acres is the entire Plum Point but this lot we're creating is 7 acres.

MR. EBERT: Proposing to split off 7 acres?

MR. CAPPELLO: From the Section 5 and 6 which existed as 15.

MR. EBERT: So 7 from 15?

MR. CAPPELLO: Right.

MR. PETRO: I want to entertain a motion to close the public hearing.

MR. ARGENIO: I'll make the motion.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motions has been made and seconded that the New Windsor Planning Board close the public hearing for the Summit on the Hudson minor subdivision. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: I will open it back up to the board for further comment. The first fellow that talked back here, you want to know about your driveway, I'll go down there myself whenever that happens, I want to see what's going on down there, so whatever his name is and stuff, Mike, if you go down there, you pick me up, I'm

going to go with you.

MR. BABCOCK: We'll go tomorrow, Jim, if you're available.

MR. PETRO: The cars from Irish Eyes, I'm going to talk to Biasotti, Biasotti is the Chief of Police and we're going to see about some signage down there. All you need is no parking signs. Do you have any along that strip? No, probably no. Have you requested any through the police? No? I'll talk to Biasotti, we'll take a look at it. I don't know if that can happen.

MS. CONKLIN: Even if they park on one side, let us have the other side when we have company.

MR. PETRO: Seems like you don't have anything so we're going down there.

MR. BABCOCK: We're going to look at Toyota.

MR. PETRO: I kind of believe that the Toyota did have access onto Lafayette, they had one.

MR. BABCOCK: I'll pull the plan.

MR. PETRO: The snakes, you're up the creek without a paddle, I don't know what the hell to tell you, the dirt, we'll take a look at, I don't know what to do about the snakes.

MR. LANDER: Noise, the trucks, there's a noise ordinance in New Windsor, come to Town Hall, you can get a copy of the noise ordinance.

MR. PETRO: Sir, be reasonable when you're working, it goes so much farther than saying I can do it because I want to.

MR. HALBERTHAL: I want to be good neighbors.

May 12, 2004

44

MR. PETRO: Do something with the plan, if it comes back like that next time, I'm going to close it up.

MR. CAPPELLO: I got the message.

MR. PETRO: Thank you for coming in.

REGULAR ITEMS:

EUGENE & JANN HECHT (TRUCK & TRAILER DEPOT AND ECONO TOWING) SITE PLAN & SPECIAL PERMIT (04-03)

Mr. Eugene Hecht appeared before the board for this proposal.

MR. PETRO: Site plan and special permit proposed mixed uses on a single property, I see Mr. Gene Hecht is here to represent himself. We just had to check, you had to add something.

MR. HECHT: Two things, correct, Mark had wanted an asterisk next to the width, I met with him again, we had another workshop meeting, he wanted an asterisk put on the plan that was left out at 183 feet, which is done and fire inspector had a letter staying that he wanted to make sure that there was 15 feet rear access to the access for the fire trucks to the rear gates, it's a 20 foot gate, it's been added to the plan 18 feet clear access so two requirements were met.

MR. PETRO: We have highway approval superseded, we have fire approval, where do we have that?

MS. MASON: We don't.

MR. HECHT: They wanted that on the plan.

MR. PETRO: I still don't have it in front of me so we'll make it subject to.

MR. EDSALL: There was one comment that she was supposed to correct was the handicapped parking detail is still messed up.

MR. HECHT: This was the only thing you told me was the asterisk when we met.

MR. EDSALL: All I can tell you it was on the comments when you came into the work shop, you said this, right, is this right?

MR. HECHT: Wasn't given to me.

MR. EDSALL: So when--

MR. PETRO: I think 90 percent of what we did here, Gene, you already had so we're just trying to clean it up, that's what you did.

MR. HECHT: You asked the fire inspector to come down, measure it, I had it added to the plan.

MR. PETRO: Mike, just ask him to sign off on this please, we'll make it a subject to fire approval, I don't, Mark, do you have anything else to make it subject to?

MR. EDSALL: The correction of the handicapped which was in my comments from March, but again, doesn't remember it, but the other thing he should add on if he's fixing the plan, acknowledge the variance that you got. You got a variance, correct?

MR. PETRO: He received a variance which permits the second freestanding sign on the south side frontage on Route 32 has been included.

MR. EDSALL: Could you give this to your surveyor just add that?

MR. PETRO: Motion for final approval and I'll do the subject to.

MR. LANDER: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion for negative dec.

MR. ARGENIO: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for Eugene and Jann Hecht site plan and special permit on 32. Any further comment from the members? If not, roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: At this time, I will entertain a motion with the subject-to's which will be read in after the motion.

MR. ARGENIO: I'll make a motion for final approval for Eugene and Jann Hecht site plan and special use permit subject to what Jimmy's going to read in in about ten seconds.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded seconded to the site plan improvement, bond estimate should be prepared and submitted in conformance with Chapter 19 of the Town Code, signing off on the plan by the New Windsor Fire Department, and the detail that Mark requested earlier for the handicapped being added to the plan.

MR. EDSALL: Corrected on the plan.

MR. PETRO: You have three, get those done, I'll be able to sign the plans. You don't have any problem, do you, Mr. Applicant?

MR. HECHT: None.

MR. PETRO: With that, any further comment from any of the members? Roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

SHADOW FAX RUN SUBDIVISION (03-23)

Mr. James Clearwater and Mr. Drew Kartiganer appeared before the board for this proposal.

MR. PETRO: Proposed 22 lot residential subdivision. Application proposes subdivision of 70 acre parcel into 22 single family residential lots. The plan was previously reviewed at the 23 July, 2003 and 25 February, 2004 planning board meetings. Property located in the R-1 zoning district of the Town. Conceptual layout has been revised and response to the comments of the highway superintendent regarding the project access to Jackson Avenue, it is my recommendation that the board review the revised conceptual layout with the applicant, provide any general comments such that the applicant can proceed with preparation of the preliminary plan which will include additional design information in addition to a complete revised bulk table. Tell me about the layout of the driveway, Mr. Kroll was very upset with it at one point, didn't like it, didn't want it and we were asked not to go any further. Obviously, you've met with him and something good has come of it and you're going to show it?

MR. CLEARWATER: For the record, my name is James Clearwater. I'm a land surveyor with MJS. I'm here with the applicant, Drew Kartiganer. As you said a minute ago, you may recall that the original layout showed access to the whole site from Jackson Avenue through what's shown on this plan as lot 16. We picked up the location of the road at that point because we needed to cross Federal wetlands to get to the back of the site. The wetlands Federal Army Corps regulations require that if you can't avoid the wetlands altogether, you need to minimize the impact. So our crossing was at the narrowest spot of the wetlands. Mr. Kroll when he reviewed the plan felt that that location was not good for sight distance and

he preferred that the location be moved down to the north directly across from the, from this home site there, he felt that that location was better, that no improvement needed to be made on Jackson Avenue, the original location we would have had to improve approximately 250 feet of Jackson Avenue to take out a small hump in order to get the required sight distance. However, in moving the location of the road to where Mr. Kroll wanted it, it requires disturbance of upwards of 13,000 square feet of wetlands as opposed to 4,000 square feet at the previous location. That would require from the Army Corps what's called an individual permit, they don't hand them out without reason, without cause, so we are, the project would need the support of not only Mr. Kroll but the Town itself basically telling the Army Corps that for health, safety and welfare that this location is the location.

MR. PETRO: You want a positive recommendation from the planning board to go to the Army Corps of Engineers with?

MR. CLEARWATER: Right, with our application for this permit.

MR. PETRO: See any reason why we should not do that in light of the highway superintendent asking for it?

MR. EDSALL: No, I think it would be helpful and I think that it should be acknowledged that Henry's concern had to do with safety and what he's done he's asked them to relocate the access to a location that would be much safer and that's the basis for the change and that's the way he wants to proceed.

MR. PETRO: How can we do that to help the applicant along in the form of a letter that we would sign or you would sign or come from me or draft something?

MR. EDSALL: Well, the minutes are pretty clear now

that it's been discussed and I can prepare a letter for your signature that just acknowledges that there's been three appearances and that based on the three appearances before the board there was dissatisfaction with the other layout and it's now moved to this point and this is the location that's safe.

MR. PETRO: Do any of the board members have any trouble with that?

MR. KARNAVEZOS: Not at all.

MR. SCHLESINGER: No, that's fine.

MR. LANDER: No.

MR. PETRO: Can you prepare that letter then I'll sign it, that would make you very happy?

MR. CLEARWATER: Right and it would make the highway superintendent happy. I might add that the location directly across from the Waz (phonetic) homestead or house, that area of the property had been or it is deed restricted. When the Waz, when their parents gave them or sold them the property they restricted that area across the road such that there would be no future development, that area should be left forever undeveloped and in order for that the road to be here, they need to acquiesce to that.

MR. PETRO: They being who?

MR. KARTIGANER: The Wazes, they own the property on the other side, part of what your letter will be used for is to demonstrate to the Wazes that this might be the only location where we can put the road. We do not intend to put anything else, we intend to put a 200 foot deed restriction.

MR. PETRO: You want to use the letter for the same

purpose?

MR. KARTIGANER: Yes.

MR. PETRO: Have any objection to that?

MR. LANDER: No.

MR. PETRO: One other very important question before we go any further, any trouble with any snakes?

MR. KARTIGANER: We killed them all.

MR. PETRO: What else do you want tonight?

MR. KARTIGANER: Just make sure that you're acceptable with the plan layout as it stands which is loop road with a small cul-de-sac, it's 21 lots, not 22.

MR. PETRO: No access onto any other roads?

MR. KARTIGANER: Lot 16 will be coming off.

MR. PETRO: But not connected to the cul-de-sac?

MR. CLEARWATER: No.

MR. KARTIGANER: Only other concern that I'm going to voice to you at this point because we have started conversations with the Wazes with regard to the release from the deeded right-of-way, they have a concern about the entire area flooding where the road is which we're researching now. They, Mr. Waz lived there since '48 and he said the road has literally reached the point of as much as two feet under water. Henry put in a new culvert, there was a storm and the road went under water and Henry I think to it's my belief took care of the problem.

MR. PETRO: So it seems to be working pretty good?

Don't you live out there?

MR. STITLE: Bill Stittle. Now there certainly is flooding on some of the lands, that higher part of the project.

MR. KARTIGANER: According to the Wazes, we're still in the conversation, your letter is going to be part of the reason why we can get through the right-of-way, there's a bridge and a culvert to the north side that sometimes clogs according to the Wazes occasionally being once every ten years or twice every ten years, the area to the south has a single culvert which we believe was installed but at one point the Wazes have photographic documentation of it as much as five feet under water and cars stalling there, the concern being it floods and gets stuck here, floods down here, there will be no access into this subdivision in case of emergencies during rain.

MR. PETRO: What are you going to do?

MR. KARTIGANER: We have to confirm that this is the case, we need to review with Henry Kroll, this is the location where Henry wants the road based upon sight distances without improvement on the highway. We did come up with one plan where we'd be straightening out this road and taking out the bump which is the Town road in order to provide sight distance necessary for the 40 mile an hour road. If we can't reasonably confirm that we'll always have access in case of bad storms then there's a huge liability of a storm happening, somebody getting, needing emergency access and not having that access and at that point, we would probably be coming back to the board to signify that we return to the original location and straighten out the road because this is high ground that would not be cut off.

MR. PETRO: Why not improve on the situation with the

clogged pipes? Why not double the size of the pipes or the outlets or inlets?

MR. KARTIGANER: I'm not sure it's clogged pipes that's causing the problems. This road is, or this stream that comes in here according to the Wazes based upon some of their photographic documentation their property becomes like an island in a pond and the place where it actually gets stopped up when the heavy rains come in is not so much here and here as much as it's along the railroad right-of-way and we need to confirm that that's the studies that we're going to be doing now. It's not something on your road, it's not something that a larger culvert will solve, this is the lowest part of the site down on this site so when the water rises from the stream overall the entire area becomes flooded.

MR. ARGENIO: They own both sides of the road?

MR. KARTIGANER: They do.

MR. ARGENIO: How many acres do they have there total, 90 or 200?

MR. KARTIGANER: That's a 70 acres site and there's a 30 acre site to the south, most of which is, they have about 100 acres, one is owned by John and one owned by himself and his sister.

MR. CLEARWATER: Mr. Kroll replaced the culvert on Jackson Avenue last summer two foot diameter pipe, I don't know what it was before, I suspect it was certainly smaller, probably clogged up, but in any case if it's true what the Wazes have demonstrated with photographs and what they have told us water floods over the road two feet deep, it won't make any difference how big the culvert that Mr. Kroll put in there, it could be a downstream problem, we just have to look at it.

MR. STITLE: I was just going to say there was a problem, I think the problem has been corrected but in any case, if Jackson Avenue goes under water, you're not going to have access to either location, I won't have access to my house.

MR. CLEARWATER: It won't flood up to where you are.

MR. STITLE: But if the road is closed, that road is closed, you're not going to be able to get through.

MR. KARTIGANER: The point is where you're at or where the alternate road location has access to the south but if it floods below this road and above this road as the Wazes said.

MR. STITLE: It's never flooded in both locations.

MR. KARTIGANER: Well, they have photographic documentation that demonstrated it.

MR. STITLE: We have been there since 1910 as well.

MR. PETRO: I think you're embedded.

MR. KARTIGANER: That's the thing we do have to study, this is the plan that we'll push through subject to that, this is the plan that we'll push through, we don't want to set ourselves up for be it us, the Town of New Windsor or anyone else who lives on that road is the potential of getting cut off from emergency access at any point in time.

MR. PETRO: We'll give you the letter, move it along, I'm tired. Have a good night.

MR. KRIEGER: There was conversation about the noise ordinance, I have the new code book right in front of me and I had Tom check, there is no noise ordinance in

May 12, 2004

the new Town Code.

MR. BABCOCK: Page 300-69, sir.

MR. PETRO: Is there anything else to come before the board? Motion to adjourn.

MR. ARGENIO: So moved.

MR. KARNAVEZOS: Second it.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

Respectfully Submitted By:


Frances Roth
Stenographer

5/24/04